

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of THE COMMONWEALTH OF PUERTO RICO <u>et</u> <u>al.</u> , Debtors. ¹	PROMESA Title III No. 17 BK 3283-LTS (Jointly Administered)
In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of PUERTO RICO ELECTRIC POWER AUTHORITY, Debtors.	PROMESA Title III No. 17 BK 4780-LTS

MEDIATION TEAM'S NINTH NOTICE AND REPORT

To the Honorable United States District Judge Laura Taylor Swain:

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico ("Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

PLEASE TAKE NOTICE that, on April 8, 2022, the Court entered an order (the “Appointment Order”)² appointing a Mediation Team comprising the Honorable Shelley C. Chapman as lead mediator, the Honorable Robert D. Drain, and the Honorable Brendan L. Shannon (collectively, the “Mediation Team”) to facilitate confidential negotiations among the Mediation Parties (and any other Mediation Party added in the Mediation Team’s discretion) regarding the Mediation Topics (the “Mediation”). On the same date, the Court entered its *Order Establishing the Terms and Conditions of Mediation* (the “Terms and Conditions Order”).

PLEASE TAKE FURTHER NOTICE that, on December 30, 2022, the Court entered its *Notice and Order Regarding Mediation Team* stating that, due to the retirement of the Honorable Robert D. Drain from judicial service on December 31, 2022, “effective December 31, 2022, and until further notice (including, without limitation, notice of reappointment of Judge Drain to the Mediation Team in a private capacity), the Mediation Team will consist of Hon. Shelley C. Chapman (ret.) and Hon. Brendan Linehan Shannon.”³

PLEASE TAKE FURTHER NOTICE that, on March 3, 2023, the Court approved the *Disclosure Statement for the Modified Second Amended Title III Plan of Adjustment of the Puerto Rico Electric Power Authority*, dated March 1, 2023, and scheduled the hearing to consider confirmation of the *Modified Second Amended Title III Plan of Adjustment of the Puerto Rico Electric Power Authority*, dated March 1, 2023 (the “Plan”), for July 17–21, 24, 26–28, 2023.⁴ The hearing to consider confirmation of the Plan was subsequently adjourned by

² Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Appointment Order.

³ Case No. 17-3283, Docket No. 23187; Case No. 17-4780, Docket No. 3137. Hereinafter, the term “Mediation Team” shall refer to the Hon. Shelley C. Chapman (ret.) and the Hon. Brendan Linehan Shannon.

⁴ Case No. 17-3283, Docket No. 23675; Case No. 17-4780, Docket No. 3304.

the Court. On August 10, 2023, the Court entered an order (the “Plan Deadline Extension Order”) granting a request by the Oversight Board to extend certain plan filing and confirmation-related deadlines.⁵

PLEASE TAKE FURTHER NOTICE that, on March 22, 2023, the Court entered the *Opinion and Order Granting in Part and Denying in Part the Financial Oversight and Management Board for Puerto Rico’s Motion for Summary Judgment and the Defendant’s and Intervenor-defendants’ Cross-motion for Summary Judgment* (the “Lien Challenge Order”),⁶ among other things, directing certain parties to commence working with the Mediation Team to consensually resolve outstanding disputes regarding the Plan.

PLEASE TAKE FURTHER NOTICE that the termination date of the Mediation (the “Termination Date”) has been extended by the Court multiple times. Pursuant to the Court’s *Order Concerning Mediation Team’s Eighth Notice and Report*, dated July 25, 2023 (the “July 25 Order”),⁷ the Court extended the Termination Date through and including October 30, 2023. The July 25 Order also directed the Mediation Team “to continue filing monthly status reports concerning whether there has been genuine engagement in the Mediation process, including the number of completed scheduled mediation sessions that occurred during the preceding month and how many are at that point scheduled for the current month.”⁸

⁵ Case No. 17-3283, Docket No. 24862; Case No. 17-4780, Docket No. 3881.

⁶ Adv. Pro. No. 19-00391, Docket No. 147.

⁷ Case No. 17-3283, Docket No. 24798; Case No. 17-4780, Docket No. 3859.

⁸ This directive was originally set forth in the Court’s *Order Concerning Mediation Team’s Fourth Notice and Report*, dated April 24, 2023 (the “April 24 Order”), whereby the Court extended the Termination Date through and including July 28, 2023 and directed the Mediation Team to file monthly status reports, beginning on May 3, 2023, concerning “whether there has been genuine engagement in the Mediation process, including the number of completed scheduled mediation sessions that occurred during the preceding month and how many are at that point scheduled for the current month.” *See* Case No. 17-3283, Docket No. 24061; Case No. 17-4780, Docket No. 3404.

STATEMENT OF MEDIATION TEAM

1. The Mediation Team respectfully submits this Ninth Notice and Report as a status report in accordance with paragraph 4 of the April 24 Order and paragraph 4 of the July 25 Order.

2. The Mediation Team is aware that discussions between and among the Oversight Board and certain Mediation Parties are ongoing. In an urgent motion filed on August 10, 2023, the Oversight Board reported to the Court that it “has reached an agreement in principle with a substantial number of holders of PREPA bonds to settle their respective claims against PREPA.”⁹ In light of this development, the Oversight Board sought from the Court a further extension of certain plan filing and confirmation-related deadlines in order to finalize the necessary documents, including, but not limited to, a bond purchase agreement and restructuring support agreement (the “RSA”) and to prepare a Third Amended Plan reflecting the agreements in the RSA. By the Plan Deadline Extension Order, the Court granted the request.

3. The Oversight Board has stated that the RSA will be open for all PREPA bondholders to join. It has also informed the Court that, “[i]f the extension is granted, it may lead to another significant party settling its claim, but the Oversight Board will not request another extension to further accommodate other parties.”¹⁰

4. While the Mediation Team has been kept apprised of ongoing discussions between the Oversight Board and certain Mediation Parties under the auspices of the Terms and Conditions Order, the Mediation Team has not been directly involved in such discussions and, accordingly, is not in a position to provide more detailed information to the Court regarding the

⁹ Case No. 17-3283, Docket No. 24860; Case No. 17-4780, Docket No. 3880.

¹⁰ *Id.* ¶ 4.

number of calls and/or meetings that have taken place since the filing of the *Mediation Team's Eighth Notice and Report*. Likewise, the Mediation Team is not in a position to provide any information regarding the schedule, if any, of upcoming discussions.

5. The Mediation Team remains available to assist the Mediation Parties and is available to answer any questions the Court may have.

Dated: August 15, 2023

/s/ Shelley C. Chapman
SHELLEY C. CHAPMAN
Willkie Farr & Gallagher LLP

/s/ Brendan L. Shannon
BRENDAN L. SHANNON
United States Bankruptcy Judge